

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KITTY WALK SYSTEMS, INC., JEFF
KING and LISE KING,

Plaintiffs,

MEMORANDUM AND ORDER

CV 05-6110

-against-

(Wexler, J.)

MIDNIGHT PASS INCORPORATED,
BRADFORD D. WHITE, JULIE ANNE
WHITE, BARRETT DISTRIBUTION
CENTERS, INC.,
formerly known as BARRETT WAREHOUSE
AND TRANSPORT, INC. and SAN JOSE
DISTRIBUTION SERVICES, INC.,

Defendants.

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APPEARANCES:

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WEXLER, J.

This is an action commenced by parties to a joint venture business agreement against their co-venturers. Plaintiffs are Kittywalk Systems, Inc. ("Kittywalk") and its principals, Jeff

and Lise King (the “Kings”)(collectively “Plaintiffs”). Named as defendants are Midnight Pass Incorporated (“Midnight Pass”), as well as its principals, Bradford D. and Julie Anne White (the “Whites”) (collectively “Defendants”).

Presently before the court is Defendants’ motion for summary judgment as to the claims against the Whites, as individually named Defendants. In support of the motion, Defendants argue that Plaintiffs have failed to come forward with any evidence to support a piercing of the corporate veil and imposing individual liability. Plaintiffs rely on the allegations of the complaint to support a claim of individual liability and urge that questions of fact preclude the grant of summary judgment.

This case is trial-ready. Jury selection in this case is scheduled for October 22, 2007 with trial to begin the following day. Remaining for trial is the action for an accounting as well as Defendants’ Lanham Act counterclaims. This trial will go forward without regard to the grant or denial of the present motion. The court will deny the motion for summary judgment regarding the individual liability of the Whites at this time. Defendants may renew their motion at the close of the Plaintiffs’ case. The Clerk of the Court is directed to terminate the motion for summary judgment.

SO ORDERED.

LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
October 1, 2007